FARAD CONTINUATION SHEET.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

FIRST APPEALS NO. 712 and 695 OF 2007.

M/s Universal Medicaments . ..vs.. Joint Regional Director E.S.I.C.

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Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

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***CORAM*: C.L.PANGARKAR,J.**
DATE : 12th December, 2007.

1. Heard Mr.V.A.Brahme, Advocate for the appellant and Mr.Maldhure, Advocate for the respondent.

2. These two appeals have been preferred by the appellant M/s Universal Medicaments against the order passed by the Employees' State Insurance Court at Nagpur. It is the contention of the non-applicant that the applicant had failed to deposit the contribution which is required to be made by the applicant. Since such contribution was not made, the employees' State Insurance Corporation issued a notice to the applicant calling upon it to show cause why penalty should not be imposed and damages should not be recovered. Inspite of the service of the notice, the applicant did

not move any representation before the E.S.I. Authority and therefore E.S.I.Authority passed an order under Section 85B, imposing a penalty as well as damages on the applicant. The applicant moved an application before the E.S.I.court at Nagpur. E.S.I.Court rejected the said application and being aggrieved by that, these two appeals have been preferred.

3. Learned counsel for the applicant submitted that E.S.I. Court also did not consider the submissions made by the present applicant that it was not in a position to pay the amount of contribution because of the fact that it had not received the bills from its customers and they were short of funds. The submission has no force. Such a representation could have been made before the Director of the Employees' State Insurance Corporation. Same having not been made before that authority who was authorised to waive and even reduce the penalty and damages, there was no question of such submission being made before the E.S.I.court. Since no representation was made before the authority, the order as passed by the authority cannot be faulted with. There is no substance in both the appeals, they stand dismissed in limine.

JUDGE

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